

From: Brandon Bidewell
To: Microsoft ATR
Date: 1/23/02 5:47pm
Subject: Microsoft Settlement

I am extremely disappointed in the proposed final judgment (PFJ) that the Department of Justice has signed with Microsoft. The fact that many plaintiffs in this case are not party to the PFJ is a clear sign that the PFJ is unacceptable. It's been more than 5 years since the DoJ first took Microsoft to task; is the Department of Justice going to cave in now? If the PFJ is the most that Microsoft would concede then this issue should have been left to the judge to settle.

Microsoft's monopoly is a travesty of free markets, and the PFJ is a travesty of justice. Any settlement with Microsoft that imposes conduct restrictions is doomed to fail. As Microsoft has done in the past, it will freely violate the law and taint the competitive landscape to its sole benefit. Assuming that laws could somehow be meaningfully enforced upon Microsoft, the PFJ contains many vague and incomplete terms and statements that will cause Microsoft to redefine its actions and restructure itself to avoid complying with the PFJ.

In simplest of terms, if Microsoft was interested in following the law it would have done so.

The PFJ makes a half-hearted attempt to get Microsoft to voluntarily comply with the law and creates a limited structure meant to regulate Microsoft through further court action (IV.(A)(4) "The Plaintiffs shall have the authority to seek such orders as are necessary from the Court to enforce this Final Judgment"). Given the current status of the case, the courts should be acting now to enforce the law. One would hope that future mis-behavior by Microsoft could be effectively thwarted by something besides the threat of future court action. Past actions have proven Microsoft to be a determined monopolist that is unable to self-regulate and unwilling to be regulated. This type of vague agreement would have been reasonable 5 or 10 years ago. Microsoft cannot be expected to act reasonably and within the law.

The only option that remains is to remove the monopoly from Microsoft, thus preventing all possible unlawful actions by Microsoft. Either Microsoft is split up and effectively competes with itself or Microsoft forfeits control of its monopoly to remain a single organization. Given the uncertainties that would be involved in breaking up Microsoft and Microsoft's certain resistance to this, the forfeiture to the public domain of Microsoft's software code and patents is necessary and reasonable. This is a sure and equitable solution given that Microsoft would retain all of its employees and its cash from which it can then freely innovate and create new products.

Now is the time to free the software market from the dominance of Microsoft. Anything less will continue to strengthen Microsoft to the disadvantage of all but Microsoft employees/shareholders.

I recommend that you review the following document before forming an opinion as the need to dismantle the monopoly Microsoft has created:
http://usvms.gpo.gov/findings_index.html

Sincerely,

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